

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE;
MISSISSIPPI STATE CONFERENCE OF
THE NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE;
JACKSON CITY BRANCH OF THE
NAACP; DERRICK JOHNSON; FRANK
FIGGERS; CHARLES TAYLOR;
MARKYEL PITTMAN; CHARLES JONES;
and NSOMBI LAMBRIGHT-HAYNES,

Plaintiffs,

v.

TATE REEVES, in his official capacity
as Governor of the State of Mississippi;
SEAN TINDELL, in his official capacity
as Commissioner of Public Safety; BO
LUCKEY, in his official capacity as
Chief of the Mississippi Department of
Public Safety Office of Capitol Police;
MICHAEL K. RANDOLPH, in his
official capacity as Chief Justice of the
Mississippi Supreme Court; and LYNN
FITCH, in her official capacity as
Attorney General of the State of
Mississippi,

Defendants.

Case No. 3:23-cv-272-HTW-LGI

**PLAINTIFFS' RENEWED
NECESSITOUS AND URGENT
MOTION FOR A TEMPORARY
RESTRAINING ORDER**

For the reasons set forth below, Plaintiffs respectfully move for a temporary restraining order to be issued immediately, without a hearing, until a hearing on the motion can be scheduled. Earlier today, the Chancery Court in *Saunders v. Randolph*, Civil Action No. 23-cv-00421, dismissed Defendant Randolph from that case on grounds

of judicial immunity. *See* Notice Filed by Defendant’s Counsel, ECF No. 23.

Counsel for Plaintiffs called counsel for Defendant Randolph to ask for assurances that (1) the Chief Justice would continue to abide by the preliminary injunction entered by the Chancery Court on May 4, 2023, now that he has been dismissed from that case, and (2) if the Chancery Court lifts its injunction or lets it expire by its terms at 5:00 pm on Sunday, May 14, 2023, the Chief Justice would give this Court an opportunity to rule on Plaintiffs’ Motion for a Temporary Restraining Order before making the judicial appointments that H.B. 1020 commands him to make. Counsel for Defendant Randolph was unable to give either assurance. *See* Declaration of Carroll Rhodes (Exhibit A).

To maintain the status quo and to avoid irreparable harm from the violation of their constitutional right to equal protection of the law, Plaintiffs respectfully file a renewed necessitous and urgent motion for a temporary restraining order enjoining Defendant Randolph from appointing these judges under H.B. 1020.

The urgency of this renewed motion is acute—Defendant Randolph could at any moment make the appointments that violate Plaintiffs’ rights, and his counsel was unable to give any assurance that he would not do so. It is for this reason that Plaintiffs request a TRO, without a hearing, until a hearing on the motion can be scheduled. Notice, however, has been given to Defendants by filing this motion with the Court’s CM/ECF system, which will send a notice of electronic filing to counsel for Defendant Randolph.¹

¹ A copy of this motion has also been sent by e-mail to Special Assistant Attorney General Rex M. Shannon III, who appeared at the hearing on May 1, 2023, on behalf of all Defendants other than Defendant Randolph, but who has not yet formally entered an appearance.

In support of this motion, Plaintiffs rely on and incorporate by reference the papers submitted in support of Plaintiffs' April 28, 2023 Necessitous and Urgent Motion for a Temporary Restraining Order (ECF Nos. 11-12). In addition, to enable the Court to dispense with Defendant Randolph's purported defenses, filed herewith is Plaintiffs' Opposition to Motion to Dismiss on Behalf of Defendant Michael K. Randolph, in His Official Capacity as Chief Justice of the Mississippi Supreme Court.

As set out in the memorandum filed as ECF No. 12, Plaintiffs are substantially likely to succeed on the merits of their equal protection challenge to H.B. 1020's judicial appointment provision because they are being denied the right afforded to residents of every other county in Mississippi to vote for their Circuit Judges and to have Circuit Judges who reside in the county where they preside. Plaintiffs have also shown a substantial threat of irreparable injury, for which there is no adequate remedy at law, if H.B. 1020 is not enjoined before the Circuit Court is packed. Further, vacating these state-court appointments after the fact would be more disruptive to the Circuit Court and litigants before it than temporarily enjoining the appointments while the parties litigate and the Court rules on the motion for a preliminary injunction that Plaintiffs will file.

Accordingly, Plaintiffs respectfully request that the Court grant Plaintiffs' Renewed Necessitous and Urgent Motion for a Temporary Restraining Order to maintain the status quo and set a hearing to allow Defendant Randolph to be heard on Plaintiffs' Renewed Necessitous and Urgent Motion for a Temporary Restraining Order.

Respectfully submitted this 11th day of May, 2023.

/s/ Eric H. Holder, Jr.

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**Pro Hac Vice*

[†]Pro Hac Vice Applications to be Filed

/s/ Carroll Rhodes

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**Pro Hac Vice*

[†]Pro Hac Vice Applications to be Filed

CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2023, I electronically filed the foregoing with the Clerk of the Court by using the Court's CM/ECF system, which will send a notice of electronic filing to all counsel of record.

/s/ Mark H. Lynch

Mark H. Lynch